



## Letter to the Editor

# Guidelines on disposition of forensic psychiatric patients are urgent needed in China



China Mental Health Law has just been implemented on May 1, 2013. It undoubtedly will promote the development of China's mental health services. The law will standardize mental health services which will balance the conflicts of patients' rights and the public security. For instance, all patients with mental disorder are supposed to have the legal rights to decide whether to receive treatment or not, even for the patients with severe mental disorders when they tend to danger to themselves, or others, the legal procedure is needed for their involuntary admission.

At present, the Criminal Procedure Law is the major reference to deal with forensic psychiatric patients. The law has been amended several times and the latest amendment has been conducted on Jan 1, 2013. The law gives the procedure for mentally ill offenders who are found not guilty by reason of insanity (NGRI) to receive compulsory treatment, and the treatment decision should be pronounced by the courts. The institutions where the patients receive the compulsory treatment should evaluate their condition periodically. The law also emphasizes the protection of these patients' rights.

Mental Health Law and Criminal Procedure Law basically include the management of not only nonviolent mentally ill patients but also dangerous patients as well as offenders with mental illness. In a word, China's existing law basically takes both the patients' rights and the public's safety into account.

From the perspective of legislation, China's mental health services will achieve a historic breakthrough. However, we, as mental health professionals still have some doubts. In the past ten years, Local mental health laws have been implemented in Shanghai (2001), Ningbo (2006), Beijing (2007) and Hangzhou (2007) and so on. However, Unlike the Western countries, China's mental health services have not showed deinstitutionalization (After mental patients take treatment voluntarily, they are gradually transferred to community for treatment and the number of psychiatric hospitals therefore decline).<sup>1</sup>

There is no related research or investigation about whether it is because of the relatively low law-enforcement of local regulations or due to the lack of enough financial support. We can only reason based on the past situations in China. We deduce that the improper disposition of forensic psychiatric patients may be one of the biggest barriers in the way to improve China's mental health services.

Before the latest Criminal Procedure Law was implemented, there are many problems in dealing with offenders with mental disorder in China. For example, due to lack of mental health services resources, prisons refuse to take in criminally responsible mental patients; some patients who are not criminally responsible are sent to An-kang hospitals to take mandatory medical treatment

that has no time limit, so that patients often take long-term or even lifelong treatment; some patients are sent to general psychiatric institutions to take short-term treatment without subsequent follow-up; more often, forensic psychiatric patients that are found NGRI are released directly back home to the guard of families.<sup>2–4</sup> Financial problems often make family unable to give the patients proper medical treatment so that offenders with mental disorder repeat crimes.<sup>5,6</sup> Media's negative reports on the crimes will further worsen the public's prejudice at mental patients, who are often regarded dangerous and should be kept a distance with.<sup>7,8</sup> In fact, now China lacks standard strategy and procedure to assess the risk of mental patients, and general psychiatric patients are often mixed with forensic psychiatric patients to take treatment. This makes it difficult for families, the public and even some mental health professionals to accept the idea that mental patients can receive voluntary treatment in the communities. It may also be one of the reasons that local legislation cannot promote mental patients to take voluntary treatment and even return to communities to receive treatment.

Although the latest Criminal Procedure Law has offered guidance for mandatory medical treatment, it still lacks operability in practice. Here we list some problems that need to be attached great importance to. (1) Who should take charge of forensic psychiatric patient? In view of the double identities of patients, who are both law-breakers and mental patients, they should be dealt with by both justice and health system. But the law does not define the specific function of different departments. (2) Who should pay the fee? Now the treatment of forensic psychiatric patients is paid by both the government and families. However, the law does not detail the payment styles, and the approaches for special situations, for example, who should pay for the families who cannot afford the patients' treatment? (3) The Law has not defined the time limit for mental patients who are found NGRI to receive mandatory medical treatment, the quality of the evaluators and the disposal methods after mandatory medical treatment. For example, who will follow-up the patients after they discharged, and how should they be dealt with after they return to communities after the treatment? (4) Before the sentence of mandatory medical treatment, who should temporarily supervise the defendants with mental disorder? Detention center, general psychiatric hospitals, or special institutions like An-kang hospital? (5) How and where should the forensic psychiatric patients who do not meet the standards of mandatory treatment take medical treatment? All the problems discussed above require more concrete definition.

In a word, in order to guarantee the rights of mental patients and the public's safety, we strongly appeal for workable laws and regulations to deal with forensic psychiatric patients.

**Conflict of interest**

All authors declared no conflict of interest.

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9 May 2013

Available online 7 August 2013